

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CF0424
)	HUD NO.: N/A
MA. GUADALUPE CRUZ)	EEOC NO.: 21BA82830
)	ALS NO.: 09-0550
Petitioner.)	
)	

ORDER

This matter coming before the Commission by a panel of two, Commissioners Munir Muhammad and Nabi Fakroddin presiding, upon Ma. Guadalupe Cruz's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009CF0424; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On August 14, 2008, the Petitioner filed a charge of discrimination with the Respondent, amended April 22, 2009. The Petitioner alleged in her charge that Agri-Best Holdings, LLC, d/b/a Protein Solutions, LLC, ("Employer") discharged her from her position as a butcher because of her sex, female (Count A), national origin, Mexico (Count B) and in retaliation for having opposed unlawful discrimination (Count C), in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (the "Act"). On April 23, 2009, pursuant to the Petitioner's request, the Respondent administratively closed Count B and Count C of the charge. On September 1, 2009, the Respondent dismissed the remaining Count A of the Petitioner's charge for Lack of Substantial Evidence. On October 5, 2009, the Petitioner timely filed her Request.
2. On July 16, 2008, the Petitioner was involved in an altercation with a co-worker. According to the Petitioner, the altercation was non-physical.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

3. Following an investigation, on July 21, 2008, the Employer sent discharge letters to both the Petitioner and her co-worker based on the Employer's determination that the Petitioner and her co-worker had been involved in a physical altercation on July 16th. The Employer determined that the Petitioner's conduct, as well as her co-worker's conduct, violated the Employer's Collective Bargaining Agreement ("CBA") and its Work Place Violence policy.
4. During the Respondent's investigation the Employer submitted evidence that it had also discharged male employees for fighting in the workplace.
5. In her charge, the Petitioner denied that there was a physical altercation. The Petitioner alleged that she was discharged because of her gender and that similarly situated male employees were not discharged for fighting in the workplace. In her Request, the Petitioner states the Employer imposed different standards on its male and female employees regarding compliance with the Work Place Violence policy. The Petitioner states she reported a "minor" incident with a co-worker to the Employer. The Petitioner contends the incident did not violate the Work Place Violence policy because no physical violence took place.
6. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for lack of substantial evidence because the Respondent argues there is no evidence that the Employer's stated reason for discharging the Petitioner was a pretext for discrimination.

CONCLUSION

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, * 2 (March 7, 1995)(1995 WL 793258).

In this case, the Employer articulated a nondiscriminatory reason for discharging the Petitioner, which was that she had violated the Employer's Work Place Violence Policy. While the Petitioner disputes that the "incident" with her co-worker involved any physical contact, there is still no substantial evidence the Petitioner was terminated because of her sex. There has been no evidence presented that would be sufficient to support a conclusion that the Petitioner was discharged because she is female.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Agri-Best Holdings, LLC, d/b/a Protein Solutions, LLC, Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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Entered this 14th day of April 2010.

Commissioner Munir Muhammad

Commissioner Nabi Fakroddin